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Paragraph

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Application by BellSouth Corporation,	)	CC Docket No. 97-231
BellSouth Telecommunications, Inc.,	)	
and BellSouth Long Distance, Inc., for	)	
Provision of In-Region, InterLATA	)	
Services in Louisiana	)	

REPLY AFFIDAVIT OF ALPHONSO J. VARNER ON BEHALF OF BELLSOUTH

STATE OF Georgia
COUNTY OF Fulton

Alphonso Varner, being first duly sworn upon oath, hereby deposes and states as follows:

1. My name is Alphonso J. Varner. My business address is 675 West Peachtree Street, Atlanta, Georgia 30375. I am employed by BellSouth Telecommunications as Senior Director for Regulatory for the nine state BellSouth region. Having provided an affidavit in BellSouth's initial Section 271 application before the FCC, I herein respond to comments received on that application.

I. PURPOSE OF AFFIDAVIT

2. The purpose of this affidavit is to address new allegations raised by parties in this proceeding regarding the means by which BellSouth has met the requirements of the competitive checklist set out in Section 271(c)(2)(B) of the Telecommunications Act of 1996 ("the Act"), and Section 271's public interest test as construed by the Federal Communications Commission ("FCC") in prior proceedings.

II. COMPETITIVE ENTRY ISSUES

A. Bona Fide Request Process

3. MCI alleges that BellSouth utilizes the Bona Fide Request to delay competition. (MCI Comments, p. 70) MCI's claim is without any basis in actual experience, because MCI – having voluntarily agreed to the Bona Fide Request procedures in its interconnection agreement – has not yet used the Bona Fide Request process to request any of the services, features or capabilities referred to in its comments. Moreover, MCI is simply wrong. The Bona Fide Request process encourages competition through the use of standard guidelines for responding to CLEC requests, thus ensuring timely responses regarding the feasibility and cost of such requests. The Bona Fide Request process was developed in conjunction with AT&T and is included in both AT&T's and MCI's interconnection agreements as a voluntarily negotiated item. These clearly defined guidelines are included in Attachment B of BellSouth's Statement of Generally Available Terms and Conditions ("Statement" or "SGAT").

4. When a CLEC submits a Bona Fide Request for a service, feature or capability that has been previously developed as a result of a Bona Fide Request for the same CLEC, the CLEC will thereafter have access to that arrangement without resorting to a new Bona Fide Request if such request is made within a reasonable period of time. (Thereafter, the rates or terms offered by BellSouth may be different due to changed circumstances.) If the Bona Fide Request is for a service, feature, or capability that has been previously developed for another CLEC, the implementation timeframes for the requested service, quoted in accordance with the requirements of the Bona Fide Request process, would more than likely be shorter than when the original CLEC received the service. The decision whether BellSouth will create a standardized service, feature or capability is based on a number of market-driven factors, such as, demand.

5. Mr. Henry claims that BellSouth offers loop distribution only via the Bona Fide Request process. (Supplemental Declaration of Marcel Henry, ¶¶ 33-34). As clearly stated in my original affidavit in paragraphs 80-87 and contained in BellSouth's SGAT, subloop elements are available as standard offerings. (SGAT § IV. B.) It appears that Mr. Henry has failed to acknowledge the information contained in BellSouth's Louisiana application, simply choosing to repeat allegations (including incorrect cites) previously made regarding BellSouth's South Carolina application.

B. Anticompetitive Behavior

6. ACSI has made several allegations that BellSouth activities prevent CLECs from

freely competing for local customers. (ACSI Opposition, pp. 50-53). One of the complaints pertains to access to major office buildings, office parks and other properties. ACSI alleges that it has had difficulty gaining access to some buildings due to limited space or property owners' requests for large sums of money to enter buildings. If any inequity exists here, it is attributable to the property owners, not BellSouth. The fees of which ACSI complains are established by the property owner as a source of revenue derived from telecommunications companies. BellSouth has encountered some of these same situations in Florida, where it is seeking to compete against CLECs that have secured access to premises. This is a feature of the marketplace for all telecommunications carriers, not any consequence of BellSouth policy.

ACSI also states that BellSouth's Property Management Services Agreement is anticompetitive. These standard agreements are voluntary agreements made between BellSouth and property managers. Under the standard agreement, the property manager, acting as a type of sales agent, recommends BellSouth to tenants as the provider of choice. There is nothing to prevent ACSI from offering this same type of agreement if it so desires. Moreover, the agreement in no way excludes ACSI's entry into the building. Paragraph 10 of the standard agreement states "even though Property Management shall recommend BellSouth as the provider of choice for local telecommunications services to tenants, nothing in this Agreement shall be construed to preclude any building tenant from obtaining telecommunications services from others legally authorized to provide such service." ACSI can market to any of the tenants, the ultimate users of the service. In addition, the Property Management Agreement has a provision that if either

party is dissatisfied with the agreement the contract can be terminated within 30 days, upon written notice, and the property manager simply loses incentive credits. It should be noted here that, in Florida, CLECs are entering into more restrictive agreements with property owners. In fact, BellSouth has been told by property owners in Florida that it cannot serve customers on these properties or even come onto the properties.

8. ACSI further states that BellSouth has been requiring sales agents to sell BellSouth local services exclusively. (ACSI Opposition, pp. 53) Again, these are voluntary arrangements between BellSouth and the sales agents. Use of sales agents is a common practice in the marketplace. BellSouth has used agents for many years to augment its own sales force. I understand ACSI recently purchased CyberGate, which is an authorized sales agency. Sound business practices dictate that such arrangements be exclusive to ensure that an agent cannot simply shift one client's customer base to another client. BellSouth's use of such agreements certainly has not prevented ACSI from competing. BellSouth has only a handful of agents in Louisiana, and there are any number of agents available to ACSI should they wish to use them.

9. AT&T alleges that BellSouth has thwarted intraLATA toll competition by expanding its local calling areas and transforming what used to be intraLATA toll calls into local calls (AT&T Comments, pp. 89-90). Expanded local calling areas were established to meet the needs of BellSouth's end users, not to forestall competition. For decades end users have expressed their desire to be able to place calls within their "community of interest" without incurring toll charges. Each of

BellSouth's expanded calling plans has been approved by a state Commission as a response to customer demands. Furthermore, CLECs (including CLECs such as AT&T that carry intraLATA toll calls) have the same opportunity as BellSouth to compete for this local traffic.

10. AT&T further alleges that BellSouth has opposed introducing competition into the intraLATA toll market. BellSouth has not opposed introducing intraLATA toll competition. In fact, in numerous proceedings addressing this subject BellSouth has affirmatively stated that it is not opposed to intraLATA competition. BellSouth has aggressively sought to establish conditions to make fair competition in the intraLATA marketplace a reality. Unlike AT&T, which has incessantly attempted to keep its long distance markets closed to BellSouth, our pro-competitive actions are a matter of public record. This is also a moot point since Section 271(c) of the Act mandates 1+ intraLATA subscription upon exercising interLATA relief.

11. The "secret plan" to which AT&T refers is actually the Area Calling Plan ("ACP") Principles document and is an agreement among the LECs serving the state of South Carolina. The signatories of the ACP agreement included BellSouth, GTE, United and the South Carolina Telephone Coalition, which is an association of the smaller independent local carriers serving South Carolina. This agreement established principles to better manage requests for additional Extended Area Service ("EAS") in South Carolina and established billing arrangements between companies offering certain extended area calling plans. The processes which led to the development of the ACP Principles agreement

began in 1989 at the request of the South Carolina Public Service Commission ("SCPSC"). Contrary to AT&T's misrepresentation, this intercompany EAS task force began the 1989 deliberations in advance of any considerations of intraLATA toll competition in South Carolina.

12. This allegation of AT&T, like many others presented in this proceeding, is simply an attempt to air grievances which have already been considered and resolved by the proper regulatory agencies. AT&T made these same allegations in its intervention in BellSouth's tariff filing for ACP service in South Carolina. The SCPSC ruled that the development of ACP service was at the directive of the SCPSC and was unrelated to the introduction of intraLATA toll competition.

13. It is odd that AT&T would claim that the ACP is unfair. Although not required to do so, BellSouth extended to all IXCs offering EAS plans the opportunity to participate in an ACP agreement identical in terms to that among the LECs. AT&T agreed to the acceptability of the ACP arrangement in a stipulation dated April 11, 1994 in SCPSC Docket No. 93-176-C. A copy of the SCPSC ruling and stipulation is attached to this affidavit as Exhibit AJV-1.

C. Miscellaneous

14. MCI also claims the BellSouth "has set up an unreasonable policy" whereby CLECs must request that their customers be listed in BellSouth's directories after service is transferred from BellSouth to the CLEC. (MCI Comments, p. 68). MCI is mistaken in its assertion that the CLEC has to "g[o] to the trouble of making a separate request that listings remain intact" when submitting a request to

convert a BellSouth end user to another local service provider. The procedures contained in the BellSouth Ordering Guide for CLECs explicitly address this situation. When no listing changes are needed and the Activity Code of "V" (Conversion of Service to a new Local Service Provider, as specified) is selected on the Local Service Request, "the Directory Listing Form is not required." (BellSouth Ordering Guide for CLEC, Local Service Ordering Process, Directory Listing Request Form, p. 3-1, dated October 1997). Again, MCI has attempted to mislead the Commission with false accusations.

15. The Association of Directory Publishers ("ADP") contends that BellSouth has failed to comply with section 222(e) of the Act. (ADP Comments, p. 2). ADP claims that BellSouth's rates for directory listings are unreasonable and that BellSouth discriminates against directory publishers. BellSouth's tariffs for directory listing products have been approved by the state commissions. Furthermore, the Florida Public Service Commission in Order No. PSC-97-0535-FOF-TL, dated May 9, 1997, concluded that BellSouth's offering of subscriber list information to any directory publisher upon request for the purposes of publishing directories complies with 47 U.S.C. §222 (e). BellSouth offers to all directory publishers, through its approved tariffs, the listings of its own end users. Listings for Independent Telephone Company and CLEC end users must be obtained from the local service provider serving those end users. In accordance with the Act, ADP has the option to file a complaint with this Commission if it truly believes BellSouth is in violation of the Act.

III. AVAILABILITY OF SERVICES ISSUES

A. Limitations

16. Sprint claims that BellSouth does not allow CLECs to combine local, intraLATA, toll and interLATA traffic on one-way or two-way interconnection trunk groups. (Sprint Petition, pp. 52-55) This issue was arbitrated in Louisiana and the SGAT reflects the decisions of the Louisiana Public Service Commission in arbitration proceedings. For trunk termination, BellSouth's approved Louisiana Statement offers CLECs interconnection at BellSouth tandems and/or end offices for the reciprocal exchange of local traffic. For trunk directionality, BellSouth offers routing of local and intraLATA traffic over a single one-way trunk group. Access traffic, as well as all other traffic utilizing BellSouth's intermediary tandem switching function, can be routed via a separate trunk group which is typically a two-way trunk group. Taking all these services as a group, there is a need to separate and identify for billing purposes up to 10 types of traffic. For instance, traffic must first be identified as either originating or terminating, then for each of these, split between interstate and intrastate. This traffic must be further identified as interLATA and intraLATA traffic. Finally, intraLATA must be split between toll and local traffic. Because of this obvious complexity, combining several types of traffic on the same trunk group is not practical and creates allocation factors that cannot be supported. All of these issues were briefed and argued during the arbitration proceeding and were decided by the LPSC. Sprint has not challenged that decision, but now attempts to use it as an excuse to prevent interLATA entry.

17. AT&T objects that BellSouth does not provide CLECs with the information they would need to bill interexchange carriers for intrastate access charges. (AT&T Comments, pp. 24-25). Under normal conditions, access charges would apply for these network elements and the LPSC has not prohibited the applications of these access charges. This is an intrastate pricing issue reserved to the states and beyond this Commission's authority.

18. MCI alleges that BellSouth does not ensure that CLEC NXX codes are loaded into the switches of all third parties when assigned. (Supplemental Declaration of Marcel Henry, ¶ 46). It is not BellSouth's responsibility to assure that CLECs load NXX codes into their switches. Bellcore's Local Exchange Routing Guide ("LERG") is the source for all telecommunications providers to use to ensure that their switches are updated with information pertaining to newly assigned NXX codes, whether they be NXX codes for ILECs, CLECs or Mobile Service Providers. BellSouth cannot force CLECs to update their switches. BellSouth does, however, load the NXX codes in the switches it controls.

19. Several CLECs assert that BellSouth has not complied with its obligation to pay "reciprocal compensation" to CMRS providers and is violating section 251(b)(5) of the Act by charging a class of Commercial Mobile Radio Services ("CMRS") providers for traffic originated on the LEC network. (Comments of the Paging and Narrowband PCS Alliance of the Personal Communications Industry Association ("PNPA"), pp. 4-7, 9-10, Comments of WorldCom, pp. 29-34, Comments of KMC, pp. 15-17, Comments of ALTS, pp. 24-25, Comments of Cox, pp. 3-7). BellSouth does not charge originating access charges to CMRS

providers. Therefore, BellSouth has no such charges to "cease", and is in full compliance with this Commission's rules and regulations. PNPA further complains that BellSouth continues to charge paging providers in Louisiana for the facilities used to transport BellSouth-originated traffic. (Comments of PNPA, pp. 4-5) BellSouth is providing interconnection facilities to paging providers through approved state tariffs. Until such time as paging providers either disconnect the services obtained through the tariff or an interconnection agreement is in place governing the provision of interconnection facilities, BellSouth will continue to charge tariffed rates for interconnection and transport facilities. Section 251(c)(1) imposes upon both BellSouth and a paging provider a duty to negotiate in good faith in accordance with section 252 of the Act the particular terms and conditions of agreements to fulfill the duties described in section 251(b)(5). Furthermore, section 252(a)(1) allows BellSouth, or an incumbent LEC, to negotiate and enter into a binding agreement with a requesting telecommunications carrier without regard to the standards set forth in subsections (b) and (c) of section 251. To date, BellSouth has not had a single request for such negotiation from a paging provider operating in Louisiana.

20. MCI complains that BellSouth will only pay reciprocal compensation to the CLEC at the end office termination rate even when the CLEC switch has the same functionality and geographic scope of a BellSouth tandem. (MCI Comments, p. 67). If a call does not transit or terminate through a tandem switch, then it is not appropriate to pay reciprocal compensation for tandem switching. Tandem switching is a portion of transport, not end office switching. If the CLEC switch is an end office switch as they claim, it is not performing the tandem function.

BellSouth should compensate a CLEC for facilities and elements that the CLEC actually uses to terminate traffic on a its network; likewise, the CLEC should compensate BellSouth for the facilities and elements that BellSouth actually uses for terminating traffic on BellSouth's network. MCI simply seeks to be compensated for the cost of tandem interconnection when tandem interconnection is not provided. MCI and other CLECs are free to negotiate individual arrangements that reflect specific characteristics of their networks as they deem appropriate.

21. Mr. Henry complains that BellSouth refuses to terminate a CLEC customer's call to another carrier's customer unless that carrier has an interconnection agreement with the CLEC originating the call. (Supplemental Declaration of Marcel Henry, ¶ 29). The situation that Mr. Henry describes pertains to the fact that MCI did not have an interconnection agreement with Southwestern Bell ("SWBT") covering Tennessee. SWBT advised BellSouth that it required an interconnection agreement between SWBT and any other local telephone company wishing to establish local calling to the SWBT West Memphis exchange. Additionally, the agreement between BellSouth and MCI does not obligate BellSouth to terminate traffic to another telecommunication company. That agreement provides for "delivery of traffic to be terminated on each party's local network so that customers of either party have the ability to reach customers of the other party". Accordingly, BellSouth was neither able to, nor required to, terminate MCI's traffic to SWBT.

22. The Telecommunications Resellers Association ("TRA") claims that BellSouth

has an obligation to offer voice messaging services for resale at wholesale rates. (Opposition of TRA, pp. 24-24). Voice messaging services consist of centralized information storage and retrieval and are not considered "telecommunications services". Therefore, an ILEC is not required to offer voice messaging for resale at wholesale rates.

23. Mr. Bradbury claims that BellSouth's SGAT does not identify the particular interfaces that BellSouth is offering. (Affidavit of Jay M. Bradbury, ¶ 23). The SGAT identifies these interfaces by reference to the BellSouth Ordering Guide for CLECs ("Ordering Guide") as the resource to obtain specific information regarding the electronic interfaces BellSouth offers. In addition to the Ordering Guide, BellSouth provides user guides for the different interfaces: LENS, TAFI and EDI-PC. Due to the sheer volume and frequent updates of the available documentation, it is not practical to incorporate these ordering and user guides into BellSouth's SGAT. The affidavit of Mr. William N. Stacy addresses the availability of these guides to CLECs.

24. The Association for Local Telecommunications Services ("ALTS") urges the Commission not to grant any Section 271 application unless and until the RBOC gives the Commission assurances in writing that when an unbundled loop is ordered, it will not separate the loop from the network interface device ("NID") without specific instructions from the CLEC. (ALTS Comments, pp. 21-22). Unbundled loops ordered from BellSouth in Louisiana are provisioned with a NID. BellSouth will not provision such loops separately from the NID, unless specifically requested by the CLEC. The NID is a subloop element that can be

ordered individually by CLECs which provide their own loop without a NID.

B. Combinations of Unbundled Network Elements

25. Several parties allege that BellSouth is not in compliance with the Act as it pertains to combining unbundled network elements. (AT&T Comments, pp. 9-10, 20-21, Comments of TRA, pp. 31-34, Comments of CompTel, pp. 5-9, Sprint Petition, pp. 41-42, Comments of MCI, pp. 38-42, LCI Comments, pp. 9-10, 12, Evaluation of the United States Department of Justice). The FCC rules requiring that ILECs provide combinations of network elements to the CLECs were vacated by the United States Court of Appeals for the Eighth Circuit ("Eighth Circuit"). BellSouth's Statement reflects the Eighth Circuit's decisions which do not require ILECs to combine the unbundled elements for requesting carriers, but do permit CLECs to recombine unbundled network elements in any manner they choose (Statement § II.F.). Whether BellSouth combines unbundled network elements is irrelevant in determining BellSouth's compliance with the checklist.

26. Under the SGAT, BellSouth does not generally offer to combine network elements. However, there are certain combined elements that BellSouth offers in order to fulfill its obligations under the SGAT. For example, BellSouth offers common transport. The only technically feasible method to offer common transport is to combine it with the port. Consequently, BellSouth will combine the port and common transport. The table below identifies these exceptions and indicates those combined elements for which order coordination is available.

27.

UNEs	Combine	Coordinate
Loop and Cross Connect	X	X
Port and Cross Connect	X	X
Port + Cross Connect + Common Transport	X	X
Loop Distribution + NID	X	X
Port and Vertical Features	X	X
Loops with loop concentration	X	X
Port and Common Transport	X	X
Loops and LNP	N/A	X

The price for each of these combinations is the sum of the individual element prices set forth in Attachment A of BellSouth's SGAT.

28. BellSouth has received requests from CLECs for additional network element combinations. BellSouth is evaluating the business viability and appropriateness of these requests to determine whether to provide these combinations, how they would be provided, and the price for combining the elements.

29. The Act and FCC rules, as well as state Commission orders, require access to UNEs through physical and virtual collocation. BellSouth currently provides cross connections to extend UNEs to a CLEC's physical collocation space. BellSouth has not been requested to provide other means of access to UNEs. If a CLEC requests other means of access or assistance in combining UNEs, the Bona Fide Request process is available to the CLEC.

30. Sprint claims that BellSouth is concealing its true policies on UNEs, and in fact

intends to impose resale rates for purchases of end-to-end UNEs where the CLEC performs the combining. (Sprint Comments, p. 42). The Statement's UNE rates apply to any order of UNEs, except where the CLEC asks BellSouth to provide the UNEs on a preassembled, "switch-as-is" basis and thus effectively orders a retail service for resale. (Statement §§ II.F., XIV.A.). Before the Eighth Circuit ruling, the LPSC found that UNEs combined by a CLEC that replicates a retail service would be offered at wholesale rates (i.e., retail less discount). As a result of the Eighth Circuit decision BellSouth is required to offer UNEs combined by the CLEC at cost-based prices. However, BellSouth is not required to offer combinations of UNEs. BellSouth will abide by the terms and conditions contained in interconnection agreements signed before the Eighth Circuit ruling, which in some cases treat UNE combinations that are the equivalent of a BellSouth retail service as resale. (See 120 F.3d at 113-15). In accordance with the terms of these agreements, any modifications will be considered upon the conclusion of the appeals process for the Eighth Circuit Court's decision.

31. In its comments, AT&T references a letter dated October 7, 1997 from Fred Monacelli (BellSouth) to Anne K. Bingaman (LCI) regarding how BellSouth will bill and provision unbundled network elements purchased by a CLEC for purposes of combining such elements for itself. (Affidavit of James A. Tamplin ¶13). On November 14, 1997 (well in advance of AT&T's filing), a letter was sent to Ms. Bingaman from Mr. Monacelli to correct the October 7, 1997 letter. As stated in the November 14, 1997 letter, "when an interconnector, without any contractual obligation to the contrary, orders unbundled network elements for purposes of combining such elements for itself, BellSouth will treat, for purposes

of billing and provisioning, that order as one for unbundled network elements." A copy of the November 14, 1997 letter is attached to this affidavit as Exhibit AJV-2.

32. CompTel and the DOJ suggest that a finding that BellSouth is offering "nondiscriminatory" access to UNEs cannot be made because BellSouth is not providing requesting carriers with supervised access to its network to allow them to do the work of combining the BellSouth network elements in the way the CLECs say they would prefer. (Comments of CompTel, pp. 10-13, Evaluation of DOJ, p. 10). There is no such requirement in the Act. The only obligation on the part of an ILEC in providing "access to unbundled network elements at the premises of the local exchange carrier" is the ILEC's duty to provide collocation. 47 U.S.C § 251(c)(6). If CLECs were entitled to unfettered access to an ILEC's network, as the DOJ suggests, the ILEC's duty to provide collocation at "just and reasonable" rates would be rendered meaningless. Furthermore, BellSouth believes that the potential risks involved to the public switched network by allowing CLECs to make connections on its equipment and facilities in the central office far outweigh any advantages to the CLECs. The central office is the heart of the public switched network. Not only do the communications for thousands of people and businesses come through a central office, but critical circuits for national security, public safety and emergencies, i.e., National Security and Emergency Preparedness, Department of Defense, Federal Aviation Administration, 911, fire and burglar alarms, are concentrated in the central offices. If these critical communications paths are not maintained or are disturbed, major economic and social harm can result. This is the reason

BellSouth restricts access to its central office equipment to the small number of individuals required to operate and maintain them.

33. BellSouth is able to protect its investment and customer proprietary information by holding its employees accountable. If access to this equipment is extended to CLECs, BellSouth will not be able to ensure this protection any longer. With non-BellSouth technicians making connections to BellSouth's equipment and facilities, increased troubles for all companies will be a given. CLEC personnel working in a central office could also eavesdrop on telephone conversations and identify law enforcement wire taps. The integrity and reliability of the public switched network is jeopardized through supervised access by CLECs to BellSouth's central offices.

34. The DOJ's assertion (page 12) that the Louisiana SGAT fails to adequately specify *what* BellSouth will provide, the *method* in which it will be provided, or the *terms* on which it will be provided for the provisioning of UNEs in a manner to allow them to be recombined is unfounded. AT&T makes similar assertions that BellSouth has not developed specifications, methods, and procedures to facilitate recombining which are equally baseless. (AT&T Comments, pp. 13-14). First, the SGAT clearly states "what" BellSouth will provide. As indicated in the SGAT, "CLECs may combine BellSouth network elements in any manner to provide telecommunications services." (Statement § II.F.). This plain language means that any and all unbundled network elements are available to the CLECs to combine as they desire. AT&T's implication that the SGAT limits them to combining only loops and ports is simply wrong. There is no such restriction in

the SGAT nor is it BellSouth's policy. Furthermore, AT&T does not have to obtain services from BellSouth's SGAT. The current BST/AT&T Louisiana Interconnection Agreement enables AT&T to obtain numerous combined network elements. (AT&T/BellSouth Louisiana Interconnection Agreement, § 30.5).

35. Second, the methods and terms that will be used to provide UNEs for combining by CLECs are contained in the SGAT. There are no different methods or terms for the provision of UNEs whether a CLEC uses the UNEs individually or combines them with other UNEs or its own facilities. The DOJ seems to have a mistaken belief that UNEs provided to a CLEC for use with its own facilities are different than UNEs provided to be combined by the CLEC. If a UNE can be physically separated, BellSouth will deliver it on a separated basis. If a UNE cannot be physically separated, access will be provided in the same manner as for use on an uncombined basis. As indicated above, whether UNEs are used independently by a CLEC or combined by a CLEC, access will be provided to the UNEs in the same way. If the CLEC needs assistance in combining or operating the combined UNEs, BellSouth will negotiate with them to provide the necessary capabilities, functions or features (SGAT § II.F.1.). BellSouth provides all of the network elements that the FCC and LPSC has ordered it to provide. No CLEC has requested additional facilities or services to facilitate their ability to combine UNEs. In as much, it would not be sensible for BellSouth to second guess CLEC needs and develop processes that CLECs may or may not desire. Just because "you build it," doesn't mean "they will come."

36. Contrary to the DOJ's statements (page 13, fn. 23), BellSouth does not plan to

break existing UNEs into component parts or to modify existing UNEs. Section II.B. of BellSouth's SGAT describes the UNEs being offered in Louisiana. Attachment A of the SGAT lists each UNE and provides prices for each of these elements. If a CLEC needs additional UNEs, Section II.C. of the SGAT provides the process for requesting them. There should be no confusion regarding the UNEs which are available to CLECs in Louisiana or regarding the charges for them. The existing methods and procedures provide the necessary information for providing UNEs.

37. It is the CLEC's prerogative to determine how it would like to combine UNEs for use in serving its customers. If BellSouth were to attempt to tell a CLEC how to operate its business, DOJ would certainly object. In short, DOJ is attempting to place BellSouth in a perpetual "CATCH-22" that would prevent BellSouth from obtaining interLATA entry regardless of BellSouth's actions: Neither dictating to CLECs how to combine UNEs, nor failing to do so, would be acceptable to DOJ. Moreover, DOJ never explains what BellSouth's starting point for standardized procedures would be, as no CLEC has indicated any plan to ask BellSouth to assist it in combining UNEs.

IV. PRICING ISSUES

A. Miscellaneous

38. Ms. McFarland of AT&T claims that the activities of migrating a customer's existing service to a CLEC ("switch-as-is") are analogous to the primary

interexchange carrier ("PIC") change. (Affidavit of Patricia A. McFarland, ¶ 28). While the intervals for switch-as-is changes and for PIC changes are very similar, BellSouth does not agree that the switch-as-is change simply constitutes a software change. A switch-as-is change requires BellSouth to establish a new billing account for the customer as well as make changes to numerous downstream systems such as inventory and repair; activities that are not required by a PIC change. Therefore, the current $1.49 non-recurring charge for a PIC change is not sufficient to cover the cost of a switch-as-is change.

39. Sprint claims that resellers who provide their own operator services should receive an additional wholesale discount. (Sprint Comments, pp. 39-40). Sprint contends that BellSouth unlawfully discriminates against resellers that provide operator services and criticizes BellSouth for filing its Section 271 application "while the LPSC is in the process of considering this critical issue." The LPSC is not actively considering this issue. After duly considering all of the evidence proffered by the parties in the resale cost study Docket No. 22020, including evidence from BellSouth that its operator services are not avoided costs, the LPSC adopted its consultant's avoided cost study which did not treat operator service costs as avoided costs. With respect to basic local exchange service, there are no additional costs avoided when Sprint provides their own operator services. No additional discount is warranted. In Order No. 22020 dated November 12, 1996, the LPSC concluded that the 20.72% discount yielded by that study met the requirements of state and federal law. The LPSC also concluded that the resale discount may be subject to other adjustments as the result of future proceedings, including "another proceeding" for purposes of taking additional evidence on the

operator services issues. (Order at p. 12). That proceeding has not yet been initiated by the LPSC. Both the LPSC and the DOJ in its recent evaluation have concluded that the Louisiana resale discount is fully consistent with the methodology required by the Act.

B. Contract Service Arrangements

40. Several parties complain that BellSouth does not make contract service arrangements ("CSA") available for CLECs to resell to all end users at the wholesale discount. (AT&T Comments, pp. 6, 58-65; Telecommunications Resellers Association Comments, pp. 21-24; MCI Comments, p. 60-61; Sprint Petition, p. 38) A CSA is an individually negotiated arrangement between BellSouth and an end user whose local service is subject to competition. BellSouth's Louisiana General Subscriber Service Tariff provides: "When economically practicable, customer specific contract service arrangements may be furnished in lieu of existing tariff offerings provided there is reasonable potential for uneconomic bypass of the Company's services." A copy of BellSouth's Louisiana tariff is included as Exhibit AJV-3. Rates, charges, terms and additional regulations, if applicable, for CSAs are developed on an individual, end user specific basis, and include all relevant costs. AT&T is mistakenly characterizing CSAs as "general tariff offerings" which should be subject to the wholesale discount. To the contrary, CSAs are developed for a specific customer in a specific competitive situation, with specific contract rates, terms and conditions.

41. While CSAs are made up of a combination of tariffed services and those tariffed

services are available for resale individually at the 20.72 percent discount, the specific CSA is not provided at a further discount. The resale discount represents costs that will be avoided. In the case of CSAs, it appears that there would be little, if any cost avoided; in particular, BellSouth has already incurred the cost of negotiating the CSA with the end user.

42. In any event, the LPSC's decision not to impose a further discount for already discounted CSAs is the only sensible approach. If CLECs were entitled to an automatic 20.72 percent discount beyond the discounts already included in the CSAs, end users would automatically be able to obtain an additional discount simply by turning to BellSouth's competitors.

43. The LPSC's AT&T Arbitration Order (LPSC Order U-22145) concluded that requiring BellSouth to offer already discounted CSAs for resale at wholesale prices would create an unfair competitive advantage for AT&T. The LPSC further ordered that CSAs which are in place as of the January 28, 1997 are exempt from mandatory resale. CSAs in existence or terminating after January 28, 1997 are available for resale at the same terms and conditions, including rates, that BellSouth offers to end user customers, at no discount.

44. Several parties assert that BellSouth has signed up business customers to CSAs to lock in these customers to multi-year contracts before opening its local market. CSAs have been in place in Louisiana since 1989 as BellSouth's response to certain competitive situations. Once these contracts expire, CLECs as well as BellSouth can bid on providing future services. In addition, CLECs can still

market to these customers either with facilities-based offerings or by packaging resold services obtained from BellSouth at the wholesale discount. If a CLEC provides a more appealing service offering, these business customers can certainly opt out of the BellSouth contract according to the termination of contract provisions. Nor are the termination clauses in BellSouth's CSAs inappropriate. The price and terms of any CSA reflect the value that is derived from a continued relationship between the parties throughout the full term of the CSA. Termination clauses, which are standard in similar contractual arrangements of all sorts, simply cover this value should the customer terminate the agreement prematurely.

45. The same parties who disparage BellSouth's use of CSAs themselves use comparable contracts in the interLATA marketplace. Multi-year contracts are not anti-competitive. Indeed, since such contracts only exist in competitive situations, their existence demonstrates the existence of competition for various business customers.

46. This concludes my affidavit.